

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
13 WRIT PETITION NO. 4221 OF 2016**

GOPINATH NARSANNA RACHMALE AND ANOTHER

..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Balaji B. Yenge, Advocate for the Petitioners.
Mr. S. B. Pulkundwar, AGP for Respondent-State.
Mr. Kamalakar J. Suryawanshi, Advocate for the
Respondent No.4.

...

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 31st OCTOBER, 2018.

PER COURT:-

1. Mr. Yenge, learned counsel for the petitioners submits that the petitioner no.1 is a Cardio-thoracic Surgeon. The petitioner no.2 is the wife of petitioner no.1. The petitioners have deposited the amount in fixed deposit with respondent no.4-Vishwakarma Nagari Sahakari Bank Limited, Aurangabad. The petitioners have deposited an amount of Rs.7,00,000/- that is an amount of Rs.2,00,000/- in short term deposit bearing no.35/4341 and short term deposit of Rs.5,00,000/- in the name of petitioner nos.1 and 2 bearing no.35/4356. The total amount of Rs.6,15,202/- is recoverable by petitioners. However, only an amount of Rs.1,00,000/- in each account that is in all Rs.2,00,000/- is received by petitioners. The petitioner no.1 is suffering from

Coronary Artery Disease and Angioplasty is required to be performed and for which an amount of Rs.6,00,000/- is required. The respondent is not paying the amount. The petitioner no.2 has also developed Golblader Stone, for which also operation is required and the expenses would be Rs.3,00,000/-. The learned counsel submits that the petitioners are entitled to receive their own amount.

2. The learned counsel for respondent no.4 submits that the respondent no.4 is under liquidation. The Reserve Bank of India has cancelled the license of the respondent no.4-Bank and imposed restrictions under Section 35(A) of the Banking Regulation Act, 1949. The Liquidator has forwarded proposal to the D.I.C.G.C. for payment of depositors. The D.I.C.G.C. sanctioned claims to the extent of Rs.1,00,000/- to each depositor and respondent no.4 has paid amount of Rs.1,00,000/- to each depositor. The learned counsel submits that in view of the decision of the Apex Court in a case of **D.I.C.G.C. Vs. Raghupati Raghwant in Civil Appeal No.1035 of 2008** dated July 1, 2015, the payment has to be first made to D.I.C.G.C. and amount cannot be paid to the depositors in view of the Section 21 of D.I.C.G.C. Act 1961 read with Regulation No.22 of Regulations, 1961. The respondent no.4 has to pay an amount of Rs.245.45 lacs as on date. The recovery proceedings are

initiated. The recoveries are made. As and when the recoveries are made, payment to the D.I.C.G.C. is being made and thereafter payment to the depositors.

3. Considering the judgment of the Apex Court in a Case of **D.I.C.G.C. Vs. Raghupati Raghwant** (supra) the payment has to be first made to D.I.C.G.C.. It is submitted by the respondent no.4 that the balance amount to be paid to the D.I.C.G.C. is Rs.245.45 lacs.

4. At this stage we can only suggest that respondent no.4 expedites the proceedings of recovery so that the payment can be made to D.I.C.G.C. and the depositors. Naturally, the amount of the depositors is their hard earned amount, which the depositors are entitled too.

5. The respondent no.4 shall expedite the proceedings for recovery of the amount from the defaulters and shall thereafter take steps to make the payments to D.I.C.G.C. and thereafter to the depositors expeditiously.

6. Writ Petition is disposed of. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/October-18

Devendra
Nandkumar
Kale

Digitally signed by
Devendra
Nandkumar Kale
Date: 2018.11.01
18:28:26 +0530